



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RAE-VENTER LAW GROUP PC
PO BOX 1898
MONTEREY CA 93942-1898

COPY MAILED

JUN 09 2005

OFFICE OF PETITIONS

In re Application of	:
Malinow, et al.	:
Application No. 09/353,126	: DECISION ON PETITION
Filed: July 14, 1999	:
Attorney Docket No. CSHL.005.01US	:

This is a decision on the "PETITION FOR FILING DATE UNDER 37 CFR 1.53(b)", filed March 25, 2005, to accord the above-identified application a filing date of July 14, 1999.

The petition is **DISMISSED AS MOOT.**

The application was deposited on July 14, 1999 with four sheets of drawings and method claims.¹ Accordingly, the application was accorded a filing date of July 14, 1999. On February 16, 2005, the Office mailed a "Notice of Drawing Inconsistency With Specification", stating that Figures 5A and 5B are listed in the specification, but not contained in the drawings. The Notice set a non-extendable period for reply of one month or thirty days, whichever was longer. Applicant filed the instant petition on March 25, 2005 (made timely by including a Certificate of Mailing dated March 18, 2005 - 30 days from February 16, 2005). Accompanying the petition was an amendment cancelling reference to all drawing figures.

¹ As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

The application is being forwarded to the Office of Patent Publication for processing of the amendment cancelling reference to the drawing figures.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions